

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #16	CCRB Case #: 201703130	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/17/2017 6:02 PM	Location of Incident: [REDACTED]	Precinct: 32	18 Mo. SOL 10/17/2018	EO SOL 10/17/2018	
Date/Time CV Reported Mon, 04/24/2017 11:24 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/24/2017 11:24 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Willis Reyes	16494	958001	032 PCT
2. SGT John Keane	04227	935094	032 PCT
3. POM Wilfran Avila	06246	953644	032 PCT
4. POM Ryan Nohilly	18482	958989	032 PCT
5. An officer			032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Keane	Abuse: Sergeant John Keane authorized the entry of § 87(2)(b) in Manhattan.	[REDACTED]
B.POM Willis Reyes	Abuse: Police Officer Willis Reyes entered § 87(2)(b) in Manhattan.	[REDACTED]
C.POM Ryan Nohilly	Abuse: Police Officer Ryan Nohilly entered § 87(2)(b) in Manhattan.	[REDACTED]
D.POM Wilfran Avila	Abuse: Police Officer Wilfran Avila entered § 87(2)(b) in Manhattan.	[REDACTED]
E. An officer	Abuse: An officer entered and searched § 87(2)(b) in Manhattan.	[REDACTED]
F.SGT John Keane	Abuse: At § 87(2)(b) in Manhattan, Sergeant John Keane threatened § 87(2)(b) § 87(2)(b) with the use of force.	[REDACTED]
G.POM Willis Reyes	Off. Language: En route to § 87(2)(b) Hospital, Police Officer Willis Reyes made remarks to § 87(2)(b) § 87(2)(b) based upon his gender.	[REDACTED]

### Case Summary

On April 24, 2017, § 87(2)(b) § 87(2)(b) filed this complaint with the CCRB via telephone.

On April 17, 2017, at approximately 6:02 p.m., Sgt. John Keane, PO Willis Reyes, PO Wilfran Avila, and PO Ryan Nohilly, of the 32<sup>nd</sup> Precinct, responded to a call for a suicidal emotionally disturbed person (EDP) at § 87(2)(b) § 87(2)(b)'s apartment, located at § 87(2)(b) § 87(2)(b), in Manhattan. Sgt. Keane authorized PO Reyes, PO Avila, and PO Nohilly to enter § 87(2)(b) § 87(2)(b), to place § 87(2)(b) § 87(2)(b) into handcuffs (**Allegations A through D**). PO Reyes and PO Avila placed § 87(2)(b) § 87(2)(b) into handcuffs. The officers escorted § 87(2)(b) § 87(2)(b) to the ambulance in front of the location. § 87(2)(b) § 87(2)(b) alleged that an officer entered and searched his home, removing a passport that was later used to identify him (**Allegation E**). Before the ambulance left, Sgt. Keane told § 87(2)(b) § 87(2)(b) "You're going to the hospital, and if you don't comply, I'll have someone tase you," (**Allegation F**). PO Reyes rode in the ambulance with § 87(2)(b) § 87(2)(b) to § 87(2)(b) Hospital. En route to § 87(2)(b) Hospital, PO Reyes told § 87(2)(b) § 87(2)(b) "Oh, good for you. Grown man acting like a little girl. Maybe if you were a grown man, none of this would have happened" (**Allegation G**).

The age of this case exceeded the 90 day benchmark. The age of this case was 120 days as of August 22, 2017. EMTs § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) were identified as the sole independent witnesses to the allegations that occurred inside the ambulance. They were originally scheduled for July 12, 2017, and were rescheduled twice due to vacation, medical leave, and failure to receive notifications. EMT § 87(2)(b) § 87(2)(b) ultimately appeared on August 8, 2017, almost one month after he was originally scheduled.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) § 87(2)(b) rejected mediation during his phone statement and at the time of his interview.
- § 87(2)(b) § 87(2)(b)
- On August 30, 2017, a FOIL request was submitted to the NYC Comptroller's office inquiring whether or not he filed a notice of claim in regards to this incident. The request is still pending and will be added to the case file upon receipt.

### Civilian and Officer CCRB Histories

- § 87(2)(b) § 87(2)(b)
- Sgt. Keane has 10 allegations stemming from six complaints over his 13 year tenure with the NYPD, with one substantiated allegation.
  - In CCRB case number 201508695, Sgt. Keane threatened to use a taser against an individual if he did not comply with a strip search. The threat of force allegation was unsubstantiated and the strip search allegation was substantiated. The CCRB recommended Command Discipline A and the subsequent NYPD penalty was Command Discipline A.
  - In CCRB case number 201606781, a threat of force allegation was closed as unsubstantiated.
- This was the first complaint filed against PO Reyes during his two year tenure with the NYPD.
- This was the first complaint filed against PO Nohilly during his two year tenure with the NYPD.

- This was the first complaint filed against PO Avila during his four year tenure with the NYPD.

§ 87(2)(b), § 87(2)(g)

## **Findings and Recommendations**

### **Explanation of Officer Identification**

- **Allegation E** was pleaded against an officer because § 87(2)(b) did not witness an officer take his passport from his residence, and no officer admitted to taking his passport.

**Allegation A – Abuse of Authority: Sergeant John Keane authorized the entry of § 87(2)(b) in Manhattan.**

**Allegation B – Abuse of Authority: Police Officer Willis Reyes entered § 87(2)(b) in Manhattan.**

**Allegation C – Abuse of Authority: Police Officer Ryan Nohilly entered § 87(2)(b) in Manhattan.**

**Allegation D – Abuse of Authority: Police Officer Wilfran Avila entered § 87(2)(b) in Manhattan.**

It is undisputed that PO Reyes, PO Nohilly, and PO Avila entered 260 West 136<sup>th</sup> Street, 2<sup>nd</sup> Floor, in Manhattan. It is also undisputed that § 87(2)(b)'s acquaintance, Kai Segall, called the authorities to report that § 87(2)(b) was a threat to himself, which was then relayed to the NYPD.

§ 87(2)(b) was interviewed at the CCRB on May 2, 2017 (Board Review 02). § 87(2)(b) stated that, on April 17, 2017, at approximately 6:00 p.m., he was watching TV alone in his apartment, located at § 87(2)(b), in Manhattan. § 87(2)(b) heard two knocks at the door. § 87(2)(b) opened his door a few inches and saw Sgt. Keane, PO Reyes, PO Nohilly, and PO Avila standing outside his apartment. PO Reyes asked § 87(2)(b) if he was okay. § 87(2)(b) told PO Reyes that he was fine. PO Reyes asked § 87(2)(b) for his name. § 87(2)(b) told PO Reyes that he did not want to give his name because he did not know why the officers were there. PO Reyes asked § 87(2)(b) for his name again. § 87(2)(b) told the officers that he did not want to tell them his name and he did not want to answer their questions. § 87(2)(b) tried to close the door to his apartment, but PO Reyes put his foot in the way so that § 87(2)(b) could not close the door. § 87(2)(b) tried to push the door closed with his body weight. At this point, multiple officers pushed back against the door, causing it to open. Two or three officers, including PO Reyes, entered § 87(2)(b)'s apartment and placed him into handcuffs. § 87(2)(b) stated that the officers only stepped about two steps inside his apartment and handcuffed him right in front of the doorway.

Sgt. Keane was interviewed at the CCRB on June 27, 2017 (Board Review 03). Sgt. Keane stated that he received a radio run for a suicidal EDP at § 87(2)(b), in Manhattan. Sgt. Keane and PO Nohilly responded to the location and spoke with a § 87(2)(b) public safety sergeant at the location. The public safety sergeant informed Sgt. Keane that Columbia University received a call saying that § 87(2)(b) sent § 87(2)(b) a text message saying that he was going to end his life. The public safety sergeant told Sgt. Keane § 87(2)(b).

§ 87(2)(b)'s name and that he was a black male, approximately 6'2" tall, and approximately 190 pounds. Sgt. Keane, PO Reyes, PO Nohilly, and PO Avila went into the building and to the § 87(2)(b) floor. One of the officers knocked on the door, but Sgt. Keane was not sure who. § 87(2)(b) opened up the door approximately three or four feet. The officers asked § 87(2)(b) who he was and if he was okay. § 87(2)(b) refused to answer and said, "I'm not giving you my name. I don't know who you are. Go away." The officers tried to ask § 87(2)(b) more questions and continued to refuse to answer them. Sgt. Keane told § 87(2)(b) that someone called saying that he wanted to harm himself and the officers needed to have medical personnel look at him. § 87(2)(b) responded saying, "I'm not going to the hospital." After approximately five or ten minutes, Sgt. Keane became concerned for § 87(2)(b)'s safety because he did not know if § 87(2)(b) was going to hurt himself or other people. Sgt. Keane instructed the officers to place § 87(2)(b) into handcuffs for § 87(2)(b)'s safety and the officers' safety. The officers handcuffed § 87(2)(b) approximately two or three feet inside § 87(2)(b)'s apartment. Sgt. Keane could not remember who handcuffed § 87(2)(b). Sometime after being placed into handcuffs, § 87(2)(b) told Sgt. Keane that his name was § 87(2)(b). Sgt. Keane figured it was the correct person because he also matched the description provided by the security sergeant. Sgt. Keane stated that § 87(2)(b) was never considered to be under arrest.

PO Reyes was interviewed at the CCRB on June 29, 2017 (Board Review 04). PO Reyes' statement was consistent with Sgt. Keane's statement. PO Reyes and PO Avila entered § 87(2)(b)'s apartment, placed § 87(2)(b) into handcuffs, and brought him to the hospital.

PO Nohilly was interviewed at the CCRB on July 25, 2017 (Board Review 05). § 87(2)(b) would not let the officers inside his apartment, and attempted to close the door. PO Reyes and PO Avila physically prevented § 87(2)(b) from closing the door, but PO Nohilly did not know how they did so.

PO Avila was interviewed at the CCRB on August 1, 2017 (Board Review 06). PO Avila's statement was consistent with Sgt. Keane's, PO Reyes', and PO Nohilly's statements. PO Avila stated that he put his foot in the doorway so that § 87(2)(b) could not close the door.

The 911 call (Board Reviews 07 and 08) and the event generated in regards to this incident (Board Review 11) indicated that the call was placed by a female from § 87(2)(b). She reported that an African American male, born § 87(2)(b), on the second floor, was suicidal.

The police radio communications (Board Review 09 and 10) documented that the central operator informed officers "It's a EDP, § 87(2)(b) floor, suicidal student," and "male black that was born in § 87(2)(b) before they responded to the location.

The AIDED prepared by PO Reyes in regards to this incident (Board Review 12) noted in the details that officers "responded to a radio run at above listed location in regards to an emotionally disturbed person. AIDED was texting female complainant in regards to harming self. AIDED removed to § 87(2)(b) Hospital by EMS for psychological evaluation."

Medical records received from § 87(2)(b) Hospital (Board Reviews 13 and 14) noted that officers responded to § 87(2)(b)'s apartment after it was reported by another § 87(2)(b) student that he was suicidal.

The courts have held that an officer may enter a residence without a search warrant in order to address an emergency at the location. In order to do so, the officer must satisfy the three elements of the "emergency doctrine." First, the police must have reasonable grounds to believe

that there is an emergency at hand and an immediate need for their assistance for the protection of life or property. Second, the search must not be primarily motivated by intent to arrest and seize evidence. Third, there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched, People v. Mitchell 39 N.Y.2d 173 (Board Review 17), and People v. Dallas 8 N.Y.3d 890 (Board Review 15).

§ 87(2)(b), § 87(2)(g)

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**Allegation E – Abuse of Authority: An officer searched § 87(2)(b) Floor, in Manhattan.**

§ 87(2)(b) (Board Review 02) believed that after he was removed from his apartment, an officer entered his apartment far enough to see his passport on a shelf. § 87(2)(b) did not know who obtained his passport or when, but knew that the officers used it to confirm his name.

PO Reyes (Board Review 04) stated that § 87(2)(b)'s passport was next to § 87(2)(b) inside his apartment. PO Reyes did not remember exactly where the passport was and stated that he was primarily handling § 87(2)(b).

Sgt. Keane (Board Review 03) stated that § 87(2)(b) verbally provided his name to the officers after he was removed from the apartment.

PO Nohilly (Board Review 05) and PO Avila (Board Review 06) did not remember how § 87(2)(b) was identified.

§ 87(2)(b), § 87(2)(g)

**Allegation F – Abuse of Authority: At § 87(2)(b) in Manhattan, Sergeant John Keane threatened § 87(2)(b) with the use of force.**

It is disputed whether or not Sgt. Keane threatened to use a taser against § 87(2)(b).

§ 87(2)(b) (Board Review 02) stated that, outside the building, Sgt. Keane kept trying to talk to him, but § 87(2)(b) kept asking Sgt. Keane why he was in handcuffs if he was not under arrest. The ambulance arrived approximately one minute after § 87(2)(b) was brought outside. The officers and Sgt. Keane repeatedly told § 87(2)(b) that he had to go to the hospital. § 87(2)(b) repeatedly told the officers that he refused to go to the hospital. The officers forced § 87(2)(b) into the side door of the ambulance and placed him into the stretcher. The officers held § 87(2)(b) down in the stretcher and strapped his lower half of his body onto the stretcher, with his hands still in handcuffs behind his back. Inside the ambulance, Sgt. Keane told § 87(2)(b) that he was going to the hospital. § 87(2)(b) responded saying again that he was not complying with any of it and refused medical treatment. Right before the ambulance left, Sgt. Keane told § 87(2)(b) “You’re going to the hospital, and if you don’t comply, I’ll have someone tase you.”

FDNY EMT § 87(2)(b) was interviewed at the CCRB on August 8, 2017 (Board Review 16). § 87(2)(b) did not recall this incident very clearly and did not remember hearing any officer say to § 87(2)(b) “You’re going to the hospital and if you don’t comply, I’ll have someone tase you.”

Sgt. Keane (Board Review 03) stated that § 87(2)(b) continued yelling and screaming saying that he was not going to the hospital. Sgt. Keane told § 87(2)(b) that he had to go to the hospital because someone was worried about him and that he needed a medical evaluation for his health. Sgt. Keane denied that he ever went into the ambulance. Sgt. Keane stated that he stayed outside to speak with the public safety sergeant. Sgt. Keane denied telling § 87(2)(b) that he would have someone tase him if he was not compliant. Sgt. Keane denied telling § 87(2)(b) “You’re going to the hospital, and if you don’t comply, I’ll have someone tase you.”

PO Reyes (Board Review 04) did not remember Sgt. Keane ever coming into the ambulance. PO Reyes did not remember whether or not Sgt. Keane spoke to § 87(2)(b) while he was in the ambulance. PO Reyes did not remember Sgt. Keane threatening to use force against § 87(2)(b) if he did not calm down. PO Reyes did not remember Sgt. Keane saying to § 87(2)(b) “You’re going to the hospital, and if you don’t comply, I’ll have someone tase you.”

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation G – Offensive Language: En route to § 87(2)(b) Hospital, Police Officer Willis Reyes made remarks to § 87(2)(b) § 87(2)(b) based upon his gender.**

It is undisputed that § 87(2)(b) § 87(2)(b) and PO Reyes were the only people in the back of the ambulance en route to § 87(2)(b) Hospital.

§ 87(2)(b) (Board Review 02) stated that, while he was being transported to § 87(2)(b) Hospital in the ambulance, he continued to ask PO Reyes why he was in handcuffs and why he was being forced to go to the hospital. At some point in the ambulance, § 87(2)(b) was still yelling and screaming and PO1 mockingly clapped in his face and said, “Oh good for you, grown man acting like a little girl. Maybe if you were a grown man, none of this would have happened.”

§ 87(2)(b) (Board Review 16), who primarily dealt with § 87(2)(b) did not have a strong recollection of this incident. § 87(2)(b) did not remember any officer say to § 87(2)(b) “Oh Good for you, grown man acting like a little girl. Maybe if you were a grown man, none of this would have happened.”

PO Reyes (Board Review 04) stated that § 87(2)(b)'s demeanor was the same inside the ambulance while they were en route to § 87(2)(b) Hospital. When asked if he told § 87(2)(b) “Oh, good for you. Grown man acting like a little girl. Maybe if you were a grown man none of this would have happened,” PO Reyes stated, “All of that, no.” When asked if he said anything along those lines, PO Reyes said, “Um, I guess along those lines, I would say something like that, but it wasn’t specifically that, no.” PO Reyes was asked if he said something like that to § 87(2)(b) and PBA Attorney Kate Colon interjected saying, “If you remember.” PO Reyes responded, “I don’t remember exactly.” When asked if he ever called § 87(2)(b) a “little girl,” PO Reyes said, “I don’t think I directly called him a little girl.” When asked if he ever told someone else that § 87(2)(b) was acting like a little girl, PO Reyes said, “Not that I remember, no.” When asked if he told § 87(2)(b) “if you acted like a grown man none of this would have happened,” PO Reyes said, “No, he was suicidal so I don’t know exactly what that is.”

Officers must be courteous and respectful when interacting with the public, Patrol Guide Procedure 203-09 (Board Review 17).

§ 87(2)(b), § 87(2)(g)

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Squad: 16

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date